

## **BOARD OF ZONING APPEALS**

### **MEETING MINUTES**

**SEPTEMBER 24, 2015**

#### **AGENDA**

- 1. Weeks Residence – Setback Variance  
15-092V  
(Tabled 4 – 0)**

**5929 Macewen Road  
(Non-Use) Area Variance**

Chair Brian Gunnoe called the meeting to order at 6:30 p.m. Other Board members present were Jamie Zitesman, Martha Cooper, and Rion Myers. Patrick Todoran was absent. City representatives present were Katie Dodaro, Marie Downie, Tammy Noble, and Flora Rogers.

#### **Motion and Vote**

Mr. Gunnoe moved, Mr. Myers seconded, to accept the documents into the record. The vote was as follows: Mr. Zitesman, yes; Ms. Cooper, yes; Mr. Myers, yes; and Mr. Gunnoe, yes. (Approved 4 – 0)

#### **Motion and Vote**

Ms. Cooper moved, Mr. Myers seconded, to approve the August 27, 2015 meeting minutes. The vote was as follows: Mr. Gunnoe, yes; Mr. Zitesman, yes; Mr. Myers, yes; and Ms. Cooper, yes. (Approved 4 – 0)

#### **Communications**

[There were none.]

#### **Administrative Business**

Mr. Gunnoe swore in anyone that intended to address the Board, including the applicant and staff.

#### **NEW CASE:**

- 1. Weeks Residence – Setback Variance  
15-092V**

**5929 Macewen Road  
(Non-Use) Area Variance**

Katie Dodaro said is a Non-Use Area Variance for the driveway setback for the property located at 5929 Macewen Court. She said the property is .54 acres and is on the south side of Macewen Court and is east of Springburn Drive. She said it is zoned PUD and is located within Muirfield Village Subdivision PUD. She said the site contains a single family residential house and is located on a cul-de-sac. She said the site currently has a 12-foot wide driveway and the applicant wants to expand the driveway to 16 feet by adding 3 feet on the east and 1-foot on the west. She said adding the 3-foot on the east will result in a zero setback between the driveway and the property line.

Ms. Dodaro said the property has a solid brick fence that around the edge of the property and all sides. She said to the front of the house are two landscape walls that compliments the perimeter fence. She said the applicant wants to preserve the existing fence and is the basis of the variance request. She said the applicant states that the narrow driveway makes it difficult to maneuver and is the reason the applicant is requesting the variance.

Ms. Dodaro said because this type of request had not be heard before the intent of the Code and the reason for the requirements are in place. She said they are there to provide minimal area of impervious surface that will accommodate storm water management and also to allow a separation between uses and to reduce one site from impacting the other.

Ms. Dodaro said the findings were made that special conditions the applicant has stated that the landscape walls are a unique feature to the property and are permanently affixed and add a unique aesthetic value to the front of the property however do not constitute a special condition. She said landscape or stone walls are familiar throughout Dublin and some hold historic value. She said Planning has determined that this site improvement is not a special condition that is unique or exclusive to this property and furthermore the walls can be modified, opposed to completely being removed in order to accommodate a driveway expansion that meets Code requirements. She said the applicants' action or inaction has been met stating that the fence is original to the property and the applicants did not build the home or the fence and no action has been taken by the applicant to crate the need for the variance. She said that no substantial adverse effect has not been met and granting this variance will impair the intent and purpose of the driveway requirements which regulate the location and size of the driveway with the intent of creating driveways that are not on property lines to ensure proper draining and provide separation between uses.

Ms. Dodaro said special privileges standard is not met stating allowing the driveway to encroach into the required setback would grant the applicant a driveway not permitted by other properties in the same zoning district. She said the fence located on the property does not deprive the applicant of alternate options. She said recurrent in nature standard is met with many residential lots have a similar shape that when located on cul-de-sacs have walls or fences in the front of the property. She said there are other methods available standard is not met with other options being available that would meet the applicable requirements.

Ms. Dodaro said based on these findings Planning has recommended disapproval.

Mr. Gunnoe asked if the Board members had any questions. [There were none.]

Mr. Gunnoe asked if there were anyone present from the public that would like to comment on this application. [There were none.]

Mr. Gunnoe asked if the applicant would like to comment.

Amelie Weeks said the reason they are requesting the variance is because the driveway is odd. She said it is 12 feet wide with an odd angular shape and is difficult to move the cars in and out of the driveway particularly on the eastern side of the driveway. She said the driveway is not wide enough to accommodate two vehicles and understands that a 20 foot wide driveway is permitted by Code and they are asking for 16 feet so that they can accommodate two vehicles and maneuver out of the driveway. She said they are asking to widen on the east side of the driveway due to an existing brick fence.

Ms. Weeks said the site has a solid brick fence that borders the entire perimeter of the property which includes three other homes and the Muirfield Village Golf Club. She said the City maintains that a permanent brick fence is not a permanent brick fence. She said that it is not the case that this fence is a permanent solid brick fence and in some cases attaches to the home. She showed pictures of the neighboring backyards that share the permanent brick fence on the boundary line and the neighboring property that would be impacted by the variance request. She showed additional pictures of the front of her home.

Ms. Weeks said there are two reasons for the setback of 36 inches with the main reason for storm water management and creating separation between properties. She showed a short video of the drainage

from a rain that occurred this year on September 11. She said they are at the bottom of a hill and all water comes through her property and are the lowest point in the cul-de-sac which causes ice in the winter. She said they are the property that will always have storm water problems and when they expand the driveway, they are going to put in drain pipe that will connect to the downspouts which extend towards the road.

Ms. Weeks said the separation of properties was the secondary reason for the requirement. She stated that by adding to the driveway they can properly maneuver their cars and not impact their neighbor. She said she is constantly driving over the small landscaping patch that is left to the driveway and approximately 1 foot onto their neighbors' grass. She said they would have to drive up the hill to get onto the neighboring property and that would not happen. She said if the driveway didn't have a weird angle they would be able to come straight out of the driveway and avoid the grass. She said this 36 inches would solve a problem.

Ms. Weeks showed pictures of where the 36 inches would be as shown with flags along the east side of the driveway and indicated that they mow to 55 inches east of the driveway. She said the analysis of the planning report states that the landscape walls are not special and she does not believe that the landscape walls are not special and that they are permanent fixtures that are part of the home.

Mr. Zitesman asked if the wall is removed will the house structurally suffer.

Ms. Weeks responded no but there will be damage to the brick face of the house and feels that this is a permanent part of the home because it is attached in two areas. She said when she attended a Muirfield Village board meeting there were people that spoke to her about his iconic home with the brick fence that surrounds it and is in front of it. She said it is unique and not just a type of fence that is just everywhere in Dublin and is not as simple as a landscape fence made of rock.

Ms. Weeks said there is an existing brick fence to the east side of their garage and there is a sidewalk that is less than 36 inches to the property line that goes from their house through the existing fence that crosses the property line and has been there for 36 years and there has not been any trouble selling their home or with insurance. She said they want to go from the post of the existing brick fence to the street to take that area and pave it as a driveway. She said they are not asking for anything out of the ordinary because it is already being done at the top of the driveway.

Ms. Weeks said that they are asking the Board to look at the facts that she has presented and come to a determination that they are allowed to expand their driveway three feet on one side and one foot on the other for the reasons of parking issues and the maneuverability. She thanked the Board.

Ms. Cooper asked to see where the one-foot expansion would be located on the west side of the existing driveway.

Ms. Dodaro displayed the site indicating the driveway expansion.

Ms. Weeks said the four feet on the west side would not solve the problem with maneuverability and getting out of the garage.

Mr. Zitesman said if they are talking about four feet additional on the driveway, looking at the expansion from the east or the west side there is still four feet additional to the driveway.

Ms. Weeks said it would not help with the maneuverability. She said their front yard is not very wide and with taking four feet into the yard takes a huge part of their yard.

Mr. Zitesman said that she could expand the driveway to create a parking area for a car without extending it all the way to the street.

Ms. Weeks said the extra parking spot would be in front of the perimeter fence.

Mr. Zitesman asked if they had gotten estimates on the feasibility or cost of actually moving the fence.

Ms. Weeks said she had not because Planning said that is not an appropriate standards for a variance.

Mr. Zitesman said three years ago when they bought the house the driveway was existing in this condition at that time and they were aware of that when they bought the house.

Ms. Weeks said when they bought the house they were there with one car and now they have two cars and are having to move cars. She said two years ago they renovated their house and had a dumpster located in their driveway and had to park in the neighbor's yard because they did not have access to their garage or the driveway.

Mr. Gunnoe said it was a great presentation and wished everyone took the time to put that type of information together for their applications. He asked if they have had their property surveyed.

Ms. Weeks said they had not because it was not required but she has made calls and willing to do it if it would be helpful.

Mr. Myers said that was his concern as well because they do not really know what the distance is from the property line to the driveway.

Ms. Weeks said the company said they have to do the entire property and are willing to do it because they believe they have more than three feet.

Mr. Gunnoe said his opinion the landscape fence and is not part of the house structure. He said the landscape fence could be modified.

Ms. Weeks asked if she were to request a table would this application stay as an active case and come back to a later meeting or start the process of applying all over again.

Ms. Noble agreed that if they table the request, she could get the needed information and return it to staff and they would place her application on the next agenda.

Ms. Weeks said she would ask the Board not to make a decision tonight and table the request so that she may do some further work.

### **Motion and Vote**

Mr. Gunnoe made a motion, seconded by Ms. Cooper, to table the Non-use (area) variance at the request of the applicant. The vote was as follows: Mr. Zitesman, yes; Mr. Myers, yes; Ms. Cooper, yes; and Mr. Gunnoe, yes. (Tabled 4 – 0)

Mr. Gunnoe said the next meeting is scheduled for October 22, 2015, and adjourned the meeting at 7:12 p.m.

As approved by the Board of Zoning Appeals on November 19, 2015.